

according to Nussbaum, Livingstone "had come highly recommended to him by HILLARY CLINTON, who has known his mother for a longer period of time."

The Insert is dated. It specifically states that "[t]he following investigation was conducted by SA M. Dennis Sculmbrene regarding DAVID CRAIG LIVINGSTONE on 3/1-3/93." See Exhibit 1. The Insert is also initialed by Special Agent Sculmbrene. *Id.* The preparation and form of the Insert was fully consistent with long-standing FBI practices and procedures.

Nonetheless, the Report concludes that the circumstances surrounding Special Agent Sculmbrene's preparation of the Insert do not corroborate its accuracy, because, among other purported reasons, the Insert allegedly is unsigned and undated. However, and consistent with long-standing FBI practices and procedures, the Insert is both initialed and dated. Moreover, given that Special Agent Sculmbrene conducted literally thousands of background investigations during his tenure at The White House, it is not at all unusual, and hardly dispositive, that he has no independent recollection of what at the time was an otherwise unremarkable interview. In fact, the purpose of such inserts is to document background investigation interviews.

The Report also concludes that the that the circumstances surrounding Special Agent Sculmbrene's preparation of the Insert do not corroborate its accuracy because apparently there are no accompanying notes from the interview. Again, however, the note-taking practices described by Special Agent Sculmbrene and set forth in the Report are fully consistent with long-standing FBI practices and procedures. FBI agents are not required to keep notes if an insert is prepared. In fact, FBI practices and procedure mandate that under no circumstances are agents to retain notes of interviews for more than ninety (90) days. If notes are kept of an interview that is detailed in a FBI 302, the notes are not kept by the agent, but are placed in a special envelope that accompanies the 302.

Moreover, the accuracy of the Insert, and the link between Livingstone and Mrs. Clinton contained therein, is corroborated by several facts. First, in the three (3) years before Livingstone was implicated in the unlawful obtaining and maintaining of hundreds of FBI background investigation files of former Reagan and Bush Administration appointees, employees and staffers, The White House had access to Livingstone's background investigation files -- and the Insert contained therein -- but never sought to retract or otherwise amend Nussbaum's statement linking Livingstone's hiring to Mrs. Clinton. A March 10, 1993 letter from FBI Assistant Director Larry Potts to Nussbaum demonstrates that Livingstone's FBI background investigation file was sent to The White House shortly after Special Agent Sculmbrene's interview of Nussbaum (Exhibit 2), and Special Agent Sculmbrene even witnessed Associate White House Counsel Kennedy reviewing the file on one occasion in 1993. Kennedy admitted during his deposition before the House Government Reform and Oversight Committee that he not only reviewed Livingstone's FBI background investigation file, but that he also discussed it with others, including Deputy White House Counsel Vince Foster and Christine Varney. Exhibit 3. The fact that The White House obtained and reviewed Livingstone's FBI background investigation file three (3) years before the "Filegate" controversy erupted, but never